



General Assembly

January Session, 2019

Committee Bill No. 6916

LCO No. 6224



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

***AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY FOR
UNREASONABLY CONTESTED OR DELAYED WORKERS'
COMPENSATION CLAIMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-300 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As soon as may be after the conclusion of any hearing, but no
4 later than one hundred twenty days after such conclusion, the
5 commissioner shall send to each party a written copy of the
6 commissioner's findings and award. The commissioner shall, as part of
7 the written award, inform the employee or the employee's dependent,
8 as the case may be, of any rights the individual may have to an annual
9 cost-of-living adjustment or to participate in a rehabilitation program
10 administered by the Department of Rehabilitation Services under the
11 provisions of this chapter. The commissioner shall retain the original
12 findings and award in said commissioner's office. If no appeal from the
13 decision is taken by either party within twenty days thereafter, such
14 award shall be final and may be enforced in the same manner as a
15 judgment of the Superior Court. The court may issue execution upon

16 any uncontested or final award of a commissioner in the same manner
17 as in cases of judgments rendered in the Superior Court; and, upon the
18 filing of an application to the court for an execution, the commissioner
19 in whose office the award is on file shall, upon the request of the clerk
20 of said court, send to the clerk a certified copy of such findings and
21 award. In cases where, through the fault or neglect of the employer or
22 insurer, adjustments of compensation have been unduly delayed, or
23 where through such fault or neglect, payments have been unduly
24 delayed, the commissioner [may] shall include in the award interest at
25 the rate prescribed in section 37-3a and a reasonable attorney's fee in
26 the case of undue delay in adjustments of compensation and [may]
27 shall include in the award in the case of undue delay in payments of
28 compensation, interest at twelve per cent per annum and a reasonable
29 attorney's fee. Payments not commenced within thirty-five days after
30 the filing of a written notice of claim shall be presumed to be unduly
31 delayed unless a notice to contest the claim is filed in accordance with
32 section 31-297. In cases where there has been delay in either
33 adjustment or payment, which delay has not been due to the fault or
34 neglect of the employer or insurer, whether such delay was caused by
35 appeals or otherwise, the commissioner [may] shall allow interest at
36 such rate, not to exceed the rate prescribed in section 37-3a, as may be
37 fair and reasonable, taking into account whatever advantage the
38 employer or insurer, as the case may be, may have had from the use of
39 the money, the burden of showing that the rate in such case should be
40 less than the rate prescribed in section 37-3a to be upon the employer
41 or insurer. In cases where the claimant prevails and the commissioner
42 finds that the employer or insurer has unreasonably contested liability,
43 the commissioner [may] shall allow to the claimant a reasonable
44 attorney's fee. No employer or insurer shall discontinue or reduce
45 payment on account of total or partial incapacity under any such
46 award, if it is claimed by or on behalf of the injured person that such
47 person's incapacity still continues, unless such employer or insurer
48 notifies the commissioner and the employee of such proposed
49 discontinuance or reduction in the manner prescribed in section 31-296
50 and the commissioner specifically approves such discontinuance or

51 reduction in writing. The commissioner shall render the decision
52 within fourteen days of receipt of such notice and shall forward to all
53 parties to the claim a copy of the decision not later than seven days
54 after the decision has been rendered. If the decision of the
55 commissioner finds for the employer or insurer, the injured person
56 shall return any wrongful payments received from the day designated
57 by the commissioner as the effective date for the discontinuance or
58 reduction of benefits. Any employee whose benefits for total incapacity
59 are discontinued under the provisions of this section and who is
60 entitled to receive benefits for partial incapacity as a result of an
61 award, shall receive those benefits commencing the day following the
62 designated effective date for the discontinuance of benefits for total
63 incapacity. In any case where the commissioner finds that the
64 employer or insurer has discontinued or reduced any such payment
65 without having given such notice and without the commissioner
66 having approved such discontinuance or reduction in writing, the
67 commissioner shall allow the claimant a reasonable attorney's fee
68 together with interest at the rate prescribed in section 37-3a on the
69 discontinued or reduced payments.

70 (b) The provisions of subsection (a) of section 31-284 with respect to
71 the exclusivity of remedy between the employee and the employer
72 shall not apply to an action by an employee against an insurer or third-
73 party administrator for breach of the covenant of good faith and fair
74 dealing in the handling of claims under this chapter or for a violation
75 of chapter 704 or 735a or section 38a-815 or 42-110b. A claimant for
76 benefits under this chapter is a third-party beneficiary of a contract of
77 insurance for an employer's liability for benefits under this chapter and
78 of a contract for a third-party administration of claims for benefits
79 under this chapter, and such insurer or third-party administrator owes
80 to such a claimant a duty of good faith and fair dealing and a duty not
81 to contest benefits unreasonably nor to delay benefits unreasonably.
82 The provisions of chapters 704 and 735a do not preempt a common-
83 law action for breach of this covenant of good faith and fair dealing
84 and exhaustion of administrative remedies under this chapter is not

85 required prior to the filing of such action, provided benefits awarded
 86 or penalties imposed pursuant to chapter 568 shall be credited against
 87 any duplicative damages awarded pursuant to such action. Damages
 88 in successful actions against an insurer or third-party administrator
 89 under this subsection may include, but need not be limited to,
 90 demonstrable economic damages, damages for mental or physical
 91 injury, pain or suffering arising from the misconduct of the insurer or
 92 third-party administrator and attorneys' fees.

93 (c) No insurer, third-party administrator or organization authorized
 94 to handle workers' compensation claims pursuant to chapter 568 shall
 95 be allowed to seek indemnification from any employer or organization
 96 as a result of a claim brought pursuant to this section.

97 (d) No insurer, third-party administrator or organization authorized
 98 to handle workers' compensation claims pursuant to chapter 568 shall
 99 seek increases in premium or agreed-upon compensation due to any
 100 claim brought pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	31-300

LAB *Joint Favorable*